REMARKS

This is a full and timely response to the outstanding non-final Office Action mailed February 1, 2007. Reconsideration and allowance of the application and pending claims are respectfully requested.

I. Claim Objections

Claims 3 and 21 were objected to for containing informalities. Applicant thanks the Examiner for his careful attention to the claim language and for his recommended amendments.

Applicant has amended claims 3 and 21 as recommended by the Examiner. In view of those amendments, Applicant respectfully submits that claims 3 and 21 are no longer objectionable.

II. Claim Rejections - 35 U.S.C. § 101

Claim 38 has been rejected under 35 U.S.C. § 101 as being drawn to non-statutory subject matter. Applicant notes that claim 38 has been canceled through this Response. Applicant therefore respectfully submits that the rejection is moot.

III. Claim Rejections - 35 U.S.C. § 112, Second Paragraph

Claim 3 has been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention. In particular, it is argued that the term "approximately" renders the claim indefinite.

Applicant notes that the Court of Appeals for the Federal Circuit (the "Federal Circuit") has held on multiple occasions that relative terms are not *per se* improper. For instance, in *Andrew Corp. v. Gabriel Electronics, Inc.*, 847 F.2d 819, 6 USPQ2d 2010 (Fed. Cir. 1988), *cert. denied*, 488 U.S. 927 (1988), the Court commented that such words are "ubiquitous in patent claims. Such usages, when serving reasonably to describe the claimed subject-matter to those of skill in the field of the invention, and to distinguish the claimed subject matter from the prior art, have been accepted in patent examination and upheld by the courts." *Id.*, 847 F.2d at 821, 6 USPQ2d at 2012. Instead of disregarding relative terms, such terms should be interpreted in light of the specification to determine the literal coverage of the claim. *See Uniroyal, Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044, 5 USPQ2d 1434 (Fed. Cir. 1988), *cert. denied*, 488 U.S. 825 (1988).

Further support for the proposition that relative terms are not by definition indefinite may be found in the following cases: *Seattle Box Co., Inc. v. Industrial Crating & Packaging, Inc.*, 756 F.2d 1574 (Fed. Cir. 1985)(held that words of degree in the claims were not indefinite because the specification provided an indication as to how to measure that degree); *Rosemont, Inc. v. Beckman Instruments, Inc.*, 727 F.2d 1540 (Fed. Cir. 1984)(held that relative terminology was not indefinite even though the terminology was not precisely defined in the specification); *U.S. v. Telectronics*, 857 F.2d 778 (Fed. Cir. 1988)(held that relative terminology was not indefinite because the Patent Act only requires "reasonable precision" in delineating the bounds of the claimed invention); *Modine Mfg. Co. v. U.S. Int'l Trade Comm'n*, 75 F.3d 1545, (Fed. Cir. 1996)(held that qualitative terms without numerical limits were not indefinite); *Ecolab v.*

Envirochem, Inc., 264 F.3d 1358 (Fed. Cir. 2001)(stated that it is common to use relative terms to avoid a strict numerical boundary and that relative terms must construed using the same rules of construction as any other claim term).

That relative terms are not *per se* improper is also supported by the Manual of Patent Examining Procedure (MPEP). As provided in MPEP § 2173.05(b) entitled "Relative Terminology," the MPEP states:

> The fact that claim language, including terms of degree, may not be precise, does not automatically render the claim indefinite under 35 U.S.C. 112, second paragraph. *Seattle Box Co., v. Industrial Crating and Packing, Inc.*, 731 F.2d 818, 221 USPQ 568 (Fed. Cir. 1984). Acceptability of the claim language depends upon whether one of ordinary skill in the art would understand what is claimed, in light of the specification.

In the present case, the meaning of the term "approximately" is well known to persons having ordinary skill in the art as well as lay persons. Moreover, that term has frequently been used in the claims of many patents that have already been issued by the U.S. Patent and Trademark Office. Applicant therefore respectfully submits that claim 3 defines the invention in a manner consistent with 35 U.S.C. § 112 and respectfully requests that the rejection to claim 3 be withdrawn.

IV. Claim Rejections - 35 U.S.C. § 102(b)

Claims 1-12, 17-27, 29-36, and 38 have been rejected under 35 U.S.C. § 102(b) as being anticipated by *Laube* (U.S. Pat. No. 4,653,086). Applicant respectfully traverses this rejection.

It is axiomatic that "[a]nticipation requires the disclosure in a single prior art reference of each element of the claim under consideration." *W. L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1554, 220 U.S.P.Q. 303, 313 (Fed. Cir. 1983). Therefore, every claimed feature of the claimed invention must be represented in the applied reference to constitute a proper rejection under 35 U.S.C. § 102(b).

In the present case, not every feature of the claimed invention is represented in the Laube reference. Applicant discusses the Laube reference and Applicant's claims in the following.

A. The Laube Disclosure

Laube discloses a communication terminal that processes both voice and graphical information. *Laube*, Abstract. As described by Laube, the communication terminal 10 includes a telephone set 14, which can be used as a conventional telephone, and a touch sensitive display screen 32, which can be used to generate graphical information to be simultaneously transmitted with voice information over a subscriber line. *Laube*, column 3, lines 19-29; column 4, lines 39-44; and column 5, lines 45-52.

B. Applicant's Claims

As is noted above, Laube fails to teach aspects of Applicant's claims. Applicant discusses some of those claims in the following.

1. Claims 1-5

Applicant's independent claim 1 provides as follows (emphasis added):

> 1. A method for transmitting graphical data via a communication line, comprising:
>
> generating graphical data representative of a user input;
>
> buffering the graphical data in memory; and
>
> *transmitting portions of the graphical data* over the communication line to a remote device *at a controlled rate that does not exceed a predetermined maximum data transfer rate at which a bandwidth of the communication line would be exceeded.*

Regarding claim 1, Laube does not teach "transmitting portions" of graphical data "at a controlled rate that does not exceed a predetermined maximum data transfer rate at which a bandwidth of the communication line would be exceeded". Applicant notes that column 5, lines 47-52 of the Laube reference, which were relied upon in the Office Action, do not teach transmitting any data "at a controlled rate". Instead, that portion of the Laube reference merely states that voice and graphical information are transmitted "within a limited bandwidth." *Laube*, column 5, lines 50-51. Laube's reference to "limited bandwidth" is a reference to the *frequency band* used to transmit the voice and graphical information, not the *rate* at which graphical data is transmitted. We know this

because Laube states that a "frequency multiplexer" is used to so transmit the voice and graphical information. *Laube*, column 5, lines 49-51.

Applicant further notes that column 7, lines 1-10 of the Laube reference, which were also relied upon in the Office Action, do not teach transmitting any data "at a controlled rate". Instead, that portion of the Laube reference merely states that the frequency multiplexer provides for simultaneous transmission of voice and "redundancy reduced graphical data". Laube does not define what "redundancy reduced graphical data" is and, therefore, it cannot be determined from the reference what Laube is describing. Regardless, it is clear that transmitting "redundancy reduced graphical data" is not a teaching of transmitting data "at a controlled rate".

In view of at least the above, Applicant submits that claim 1 and its dependents are not anticipated by the Laube reference.

2. Claims 6-12

Applicant's independent claim 6 provides as follows (emphasis added):

> 6. A method for transmitting graphical data via a communication line, comprising:
>
> generating graphical data representative of a user input;
>
> identifying discrete data points of the generated graphical data; and
>
> *transmitting only the identified discrete data points over the communication line to a remote device such less than all of the generated graphical data is transmitted so as to not exceed a bandwidth of the communication line.*

Regarding claim 6, Laube does not teach transmitting only "discrete data points over the communication line to a remote device such less than all of the generated graphical data is transmitted so as to not exceed a bandwidth of the communication line". Applicant notes that column 5, lines 47-52 of the Laube reference, which were relied upon in the Office Action, do not teach transmitting any such "discrete data points". Instead, that portion of the Laube reference merely states that voice and graphical information are transmitted "within a limited bandwidth." *Laube*, column 5, lines 50-51. Laube's reference to "limited bandwidth" is a reference to the frequencies used to transmit the voice and graphical information, not the nature of the data that is transmitted. Again, we know this because Laube states that a "frequency multiplexer" is used to so transmit the voice and graphical information. *Laube*, column 5, lines 49-51.

Applicant further notes that column 7, lines 1-10 of the Laube reference, which were also relied upon in the Office Action, do not teach transmitting "discrete data points". Instead, that portion of the Laube reference merely states that the frequency multiplexer provides for simultaneous transmission of voice and "redundancy reduced graphical data". As noted above, Laube does not define what "redundancy reduced graphical data" is and, therefore, it cannot be determined from the reference what Laube is describing. Regardless, it is clear that Laube's identification of "redundancy reduced graphical data" is not an actual teaching of "transmitting only . . . discrete data points". A proper rejection under 35 U.S.C. § 102 requires disclosure of *each element* of the claim under consideration.

In view of at least the above, Applicant submits that claim 6 and its dependents are not anticipated by the Laube reference.

3. Claims 17-23

Applicant's independent claim 17 provides as follows (emphasis added):

> 17. A method for transmitting graphical data via a communication line, comprising:
>
> generating graphical data representative of a user input;
>
> identifying a reference data point;
>
> transmitting information that describes the reference data point via the communication line;
>
> *identifying relative coordinates of a further data point that identify the location of the further data point relative to the reference data point*; and
>
> transmitting the coordinates to another device via the communication line.

Regarding claim 17, Laube does not teach identifying a reference data point and then "identifying relative coordinates of a further data point that identify the location of the further data point relative to the reference data point". Applicant notes that column 6, line 66 to column 7, line 1 of the Laube reference, which was relied upon in the Office Action, does not teach identifying "relative coordinates" that identify a location of a data point "relative to" another data point. Instead, that portion of the Laube reference merely teaches "extracting" coordinate values. Those extracted coordinates clearly are absolute coordinates, not relative coordinates.

As a further matter, Applicant notes that the process described in claim 17 is explicitly defined by Applicant's specification, which must be considered when interpreting claim scope. *Markman v. Westview Instruments, Inc.*, 52 F.3d 967, 34 USPQ2d 1321 (Fed. Cir. 1995)(in banc), *aff'd*, 517 U.S. 370, 38 USPQ2d 1461 (1996) ("Claims must be read in view of the specification, of which they are a part"). In the specification, Applicant explicitly defines the relative coordinates as follows:

> . . . the transmission control manager 214 identifies the relative coordinates of the next data point(s) in the series, as indicated in block 710. Specifically, the relative coordinates of the next data point or points "in line" is/are identified. With reference back to the example of FIG. 8, the next data point after the reference data point 800 is data point 802. In this case, the relative x and y coordinates would be: (0x, +1y). In similar manner, data point 804 shown in FIG. 8 would have the relative x and y coordinates: (+4x, +3y).

Applicant's specification, page 14, lines 6-12. In view of the above disclosure, Applicant submits that the meaning of the term "relative coordinates" provided by Applicant cannot be ignored when examining claim 17.

In view of at least the above, Applicant submits that claim 17 and its dependents are not anticipated by the Laube reference.

4. Claims 24-28

As indicted above, Applicant has amended remaining claims 24, 26, and 27 through this Response. In view of those amendments, Applicant respectfully submits that the rejections of claims 24, 26, and 27 are moot as having been drawn against the claims

in a previous form. Applicant therefore respectfully requests that the rejections be withdrawn.

Turning to the merits of amended claims, Applicant respectfully submits that claims 24, 26, and 27 are allowable over the Laube reference for at least the same reasons that claims 1, 6, and 17 are respectively allowable over Laube.

5. Claims 29-37

As indicted above, Applicant has amended independent claim 29 through this Response. In view of those amendments, Applicant respectfully submits that the rejections of claims 29-27 are moot as having been drawn against the claims in a previous form. Applicant therefore respectfully requests that the rejections be withdrawn.

Turning to the merits of amended claim 29, Laube at least does not teach an "independent sketchpad device" that receives voice data "from a separate telephone".

IV. Claim Rejections - 35 U.S.C. § 103(a)

Claims 28 and 37 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over *Laube* in view of *Kishimoto*. Applicant respectfully traverses this rejection.

As is identified above, Laube does not teach aspects of Applicant's claims 24 and 29. In that Kishimoto does not remedy the deficiencies of the Laube reference, Applicant respectfully submits that claims 28 and 37 are allowable over the Laube/Kishimoto combination for at least the same reasons that claims 24 and 29 are allowable over Laube.

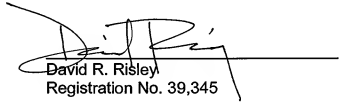
V. Canceled Claims

Claims 13-16, 25, 28, and 38 have been canceled from the application without prejudice, waiver, or disclaimer. Applicant reserves the right to present these canceled claims, or variants thereof, in continuing applications to be filed subsequently.

CONCLUSION

Applicant respectfully submits that Applicant's pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,



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